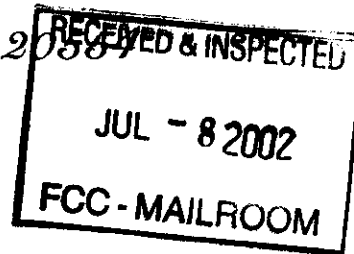


*Before the  
Federal Communications Commission  
Washington, D.C. 20587*

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In the matter of )  
 )  
HERBERT L. SCHOENBOHM )  
Kingshill, Virgin Islands )  
 )  
For Amateur Station and )  
Operator Licenses )  
 )

WT Docket No. 01-352

TO: Administrative Law Judge  
Arthur Steinberg

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW  
OF HERBERT L. SCHOENBOHM

Herbert L. Schoenbohm  
Box 4419  
Kingshill, VI 00851  
(340) 773-8522

(i)

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#### Summary

This proceeding involves an application for an amateur license held by Herbert L. Schoenbohm, KV4FZ. Mr. Schoenbohm was disqualified from renewal of his existing license in 1995 as the result of a felony conviction in 1992 for making telephone calls in 1987 with counterfeit access numbers and for expressing lack of candor at the subsequent hearing process.

The record shows that Schoenbohm has been completely rehabilitated from his past disqualifying conduct. Therefore, having established the necessary Commission designated criteria for rehabilitation; the past problems are not a barrier to granting Schoenbohm's amateur radio license application.

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## APPEARANCES

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW  
OF HERBERT L. SCHOENBOHM

## I. INTRODUCTORY STATEMENT.

1. This case involves an application for an amateur license by Herbert L. Schoenbohm. On April 4, 2001 Herbert Schoenbohm filed an application for an Amateur Radio Service Station license and an Amateur Radio Service General Class Operator License. The Commission had previously denied renewal of

Schoenbohm's Amateur Radio Service, his Extra Class license, and his KV4FZ call sign in a proceeding that began on February 2, 1994 and ultimately concluded when the U.S. Supreme Court denied Mr. Schoenbohm writ of certiorari on October 20, 2000. The Telecommunications Bureau("WTB"), who had designated Schoenbohm's original license renewal for hearing on an issue to determine whether Schoenbohm's conviction of a felony was of such magnitude as to require denial of the renewal application.

On June 7, 1995, moreover, the Administrative Law Judge enlarged the issues in this proceeding to include an "ex parte" issue.

The Commission determined after a 1995 hearing before an administrative law judge, that Mr.Schoenbohm's criminal conviction for an 1987 incident<sup>1</sup>, his

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<sup>1</sup> The Commission's Hearing Designation Order in the present matter made reference to criminal conduct extending from 1982 to 1989. Schoenbohm immediately filled a Petition for Reconsideration on this assertion, as there is nothing on the record, which would substantiate this claim. Schoenbohm informed the Commission of their error and pointed out that the conduct for which he was charged and ultimately convicted on one count of 18USC1029(a)(1) was in 1987 and covered only a few months. The Commission has not acted yet on his Petition.

misrepresentation, and lack of candor during the hearing process warranted denial of his license renewal application.

2. During the month of March 2001 Schoenbohm received from the Commission a copy of a letter, from the Deputy Chief of the Wireless Telecommunication's Bureau, to a member of the Republican National Committee in response to an inquiry about the attempts of Schoenbohm to obtain a amateur license. In this letter it was pointed out that Schoenbohm did not have any pending application before the Commission. The letter also stated that if Schoenbohm wished to be considered as an amateur radio licensee he would first need to take the examination and establishing his qualification. The letter also suggested that the Bureau would most likely review the aforementioned disqualifying conduct in determining whether or not to grant the subject application.
3. On March 31, 2001 Schoenbohm traveled to Puerto Rico and passed the General Class examination given American Radio Relay League Volunteer Examination program at the University of Puerto Rico in Rio Piedras. Two weeks later he also passed the examination for the FCC Amateur Extra Class license. However, the FCC ULS system was not able to accept the second application upgrade (File 0000418274), as explained to the applicant by the Licensing Bureau, because its processes electronically only one license per applicant at a time. Apparently, only after the first license application is

granted the upgrade with Extra Class privileges can be considered by the current computerized system.

4. Nine months later on December 31, 2001 the Commission adopted a Hearing Designation Order WTB docket 01-352 for the stated purpose of determining whether applicant Schoenbohm has been sufficiently rehabilitated to allow his amateur radio application to be considered.
5. On May 7, 2002 a hearing was held in Washington, DC at the Commission's headquarters before an Administrative Law Judge. Schoenbohm submitted for the record evidence and oral testimony to support his claim that he is fully rehabilitated since his 1992 conviction for the 1987 charged conduct. Schoenbohm also introduce evidence and testimony at the hearing to establish for the record that he is a responsible professional person presently working in a position of trust for the Virgin Islands Territorial Government. He presented evidence and testimony, that he is very respectful of Commission rules and regulations, and is highly regarded both in his community as well as among many of his fellow amateurs. The hearing last about 4 hours and concluded with the Administrative Law Judge closing the record and directed both parties to have Proposed Findings of Fact and Conclusions of Law prepared by July 9<sup>th</sup>, 2002.

## II. FINDINGS OF FACT

- (1) The Commission's Hearing Designation Order in this subject matter required that amateur radio license applicant Schoenbohm demonstrate through the hearing process that he "now possesses the requisite character qualifications to be a Commission licensee". (Hearing Designation Order FCC 01-392, page 3 paragraph 5) The order also provide the criteria for such demonstration of requisite character by stating:

"Rehabilitation is generally a factor when misconduct occurred prior to the filing of the application in question. Whether an applicant has been rehabilitated will necessarily turn on the facts of each case. Among other factors, the Commission will consider: (1) whether the applicant has not been involved in any significant wrongdoing since the alleged misconduct occurred; (2) how much time has elapsed since the misconduct; (3) the applicant's reputation for good character in the community; and (4) meaningful measures taken by the applicant to prevent the future occurrence of misconduct. RKO General, Inc., 5 FCC Rcd 642, 644 (1990). Further, where previous Commission consideration of the misconduct resulted in the denial of an application, the deterrent impact of our previous action may provide a basis for concluding that a recurrence of misconduct is unlikely. Id." 5 FCC Rcd at 3254.

- (2) Here the conclusion is inescapable that Herbert L. Schoenbohm has had a good, if not outstanding, record as a Commission licensee both as an amateur radio operator and as a current holder of a FCC First Class Radiotelephone (Now General Radio Operator License) for over 40 years.

(Schoenbohm Exhibit 43) He established at his hearing his overwhelming commitment and genuine respect for FCC rules and regulations. In order for the Commission to grant his current application as the Hearing Designation Order states, he has the burden of placing adequate evidence on the record of his rehabilitation. Taking the Commission's Hearing Designation order requirements in order: (1) Schoenbohm has "not been involved in any significant wrongdoing since the alleged misconduct occurred." (2) The criminal conviction, which caused the original Commission action, was based upon an incident that took place in 1987, over 15 years ago. It is remote in time. The conviction was coupled during the license renewal hearing process in 1995 with the expanded issue finding by the Commission that Schoenbohm lacked candor in his response to the Bureau's questions regarding communications that appeared to be a solicitation for ex-parte contact. The Commission agreed on the record that no ex-parte contact ever took place but found that Schoenbohm's explanation was less than truthful. Seven years have past since this disqualifying behavior took place. Most important is the consideration of the time period, wherein Schoenbohm was allowed by the Commission's rules to enjoy his hobby on the amateur bands while his appeal was pending, the record clearly discloses, that there were no FCC violations of any kind. This was a period of over 5 years from 1995 till January 28, 2001; 90 days after the United States Supreme



Court denied certiorari when he ceased operation. (See HDO footnote 15) During this period Schoenbohm performed valuable public service during disasters utilizing his amateur radio station and equipment. His experience in disaster communication was beneficial to the community.

(Schoenbohm Exhibits 4, 13, 22, and 45) (4) Schoenbohm submitted proof on the record that he is highly regarded in the community as a person of good character. He holds a position of trust with the Virgin Islands Territorial Government, Department of Property and Procurement and has placed on the record copies of his commendations and promotions in regard to this work. (Schoenbohm Exhibits 4, 13, 44, 45 and 46) Additionally the testimony on behalf of granting Schoenbohm's application, was heard from young Frank Todd, IV, who traveled from Pittsburgh, PA to testify at the hearing, even though in pain from a recent shoulder injury. Todd spoke of how Schoenbohm was both a mentor and an encouraging inspiration in his becoming a licensed radio amateur. Schoenbohm testified that he would not let down the many amateurs, such as Frank Todd, that had written letters encouraging the Commission to grant his application.

- (3) Schoenbohm submitted evidence that, as an active Republican Party official Schoenbohm, he was elected by the people of the Virgin Islands to serve as an alternate delegate to the Republican National Convention. (Schoenbohm Exhibit 46) Schoenbohm was elected to the Virgin Islands Republican

Territorial Committee served as State Vice-Chairman, and on April 13, 2002 was confirmed as the State Chairman, and ratified by the Republican National Committee. (Schoenbohm Exhibit 3) Thus, Schoenbohm's peers in the VI Republican Party have spoken, and decided that he is fit to serve as their leader. 4) Schoenbohm's testimony at the hearing was forthright and without equivocation. He expressed contrition and remorse for the problems he had caused in the past with the FCC. (Schoenbohm Exhibit 1) Schoenbohm was completely open and straightforward with his hearing testimony. This stands as additional evidence of his rehabilitation. This supports the conclusion that he will be a responsible amateur radio licensee able to conduct himself properly in his future dealings with the Commission.

(4) Schoenbohm's loss of license and accompanying privileges, as expressed in the Commission's own words, "provide a basis for concluding that a recurrence of misconduct is unlikely." HDO, Page 3, Section III, Paragraph 5.)

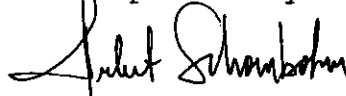
### III. CONCLUSIONS.

It is concluded, therefore, that in light of his otherwise spotless record, after his 1995 disqualifying behavior, and in light of his evident full rehabilitation, the 1995 disqualification which formed the basis of this proceeding is no longer a barrier in granting Schoenbohm's application for an amateur license.

For the reasons set forth above, it is concluded that Herbert L. Schoenbohm has satisfied his burden under the issues specified against him in this proceeding, and that a grant of his application for an amateur radio license will serve the public interest, convenience and necessity. Accordingly, the application of Herbert L. Schoenbohm for an amateur license is HEREBY GRANTED.

July 5, 2002

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Herbert L. Schoenbohm', written in a cursive style.

HERBERT L. SCHOENBOHM

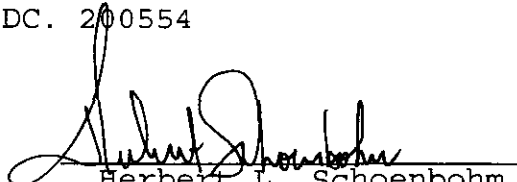
Box 4419, Kingshill, VI 00851

CERTIFICATE OF SERVICE

I, Herbert L. Schoenbohm, do hereby certify that copies of the foregoing have been sent via US Express Mail, postage prepaid, this 5<sup>th</sup> day of July, 2002:

ALJ Arthur Steinberg  
Federal Communications Commission  
445 12<sup>th</sup> St. SW  
Washington, D.C. 20554

James Shook, Atty.  
Dana Leavitt, Atty.  
Federal Communications Commission  
445 12<sup>th</sup> Street  
Washington, DC. 200554



Herbert L. Schoenbohm